

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 791 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.

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PRAVIN @ HAKO JIVABHAI

VADHARA

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner.

MR.HL JANI, AGP, for the Respondents.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 13/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 29-12-1997 passed by the Police Commissioner, Rajkot City, under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ( hereinafter referred to as "the PASA Act"), has filed this petition under Article 226 of the Constitution of India challenging the legality and validity of the order of detention.

In the grounds of detention supplied to the petitioner, the detaining authority has placed reliance on six criminal cases registered against the petitioner and are pending at the stage of investigation for offences punishable under sections 454, 457, 380, 114 of the Indian Penal Code. Over and above these criminal cases of theft, the detaining authority has also placed reliance on the statements of witnesses of the alleged incidents of 16-11-97 , 29-11-97 and 14-12-97 whose names have not been disclosed by the detaining authority in exercise of the privilege conferred upon him under section 9(2) of the PASA Act.

With regard to the incident of 16-11-97, it is alleged that when the witness was passing by the way , he was stopped and the petitioner demanded Rs.500 for getting his friend released from the jail and when the witness refused to part with the money, he was beaten by fist blows and was thrown on the road and took out Rs.230/- from his pocket. On hearing shouts people gathered and when the petitioner chased the witness with open knife, the people started running helter-skelter.

In the incident of 29-11-97 the petitioner went to the place of business of the witness and left that place after taking cold-drink and tobacco-Pan without making payment for the same. When the witness demanded money , the petitioner and his men started beating the witness. On hearing shouts people gathered and when the petitioner chased the witness with open knife, the people started running helter-skelter. with open knife

With respect to the incident of 14-12-97, the petitioner did not pay rickshaw fare and when demanded he gave abuses and fist blows to the witness. On seeing the incidents, many people gathered and when the petitioner rushed towards the crowd, people started running helter-skelter out of fear and the even tempo of life was disturbed.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the

allegations made against the petitioner are true , the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type . Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and, therefore, it cannot be contended that the petitioner is involved in committing breach of public order.

In the result, this petition is allowed. The order of detention dated 29-12-1997 is quashed and set aside. The detenu Pravinbhai @ Hako Jivabhai Vadhara is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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